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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of)
)
Application by SBC Communications, Inc.)
for Authorization Under Section 271 of the)
Communications Act to Provide In-Region)
InterLATA Services in the State of Oklahoma)
_____)

CC Docket
No. 97-121

COMMENTS OF AT&T IN
OPPOSITION TO SBC'S SECTION
271 APPLICATION FOR OKLAHOMA

APPENDIX - VOLUME III

**APPENDIX TO COMMENTS OF AT&T
IN OPPOSITION TO SBC'S SECTION
271 APPLICATION FOR OKLAHOMA**

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A	Steven R. Allen and Dean A. Gropper	SWBT's Ability to Discriminate Against IXCs and CLECs
B	William J. Baumol	Public Interest
C	Denise Crombie	Separate Subsidiary Requirements
D	Nancy Dalton	Interfaces for Operations Support Systems
E	Robert V. Falcone and Steven E. Turner	Unbundled Network Elements and Interconnection
F	Phillip L. Gaddy	Resale
G	R. Glenn Hubbard and William H. Lehr	Public Interest
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L	Daniel P. Rhinehart	SBC's Proposed Rates
M	Steven E. Turner	Local Competition in Oklahoma
N	Rian J. Wren	SWBT Resistance to AT&T Local Competition Entry Efforts



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AFFIDAVIT

OF

C. MICHAEL PFAU

ON BEHALF OF

AT&T CORP.

AT&T EXHIBIT K

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**AFFIDAVIT OF C. MICHAEL PFAU
ON BEHALF OF AT&T CORP.**

1. My name is C. Michael Pfau. My business address is 295 North Maple Avenue, Basking Ridge, New Jersey 07920.
2. I am employed by AT&T Corp., and I serve as Division Manager, Local Services Division Negotiations Support.
3. My responsibilities include helping to develop and communicate AT&T's business requirements for local services to the regional teams negotiating with the incumbent Local Exchange Carriers (incumbent LECs). I also assist the regional teams in performing feasibility assessment of business arrangements offered by the incumbent LECs.
4. I began my career in Bell of Pennsylvania, where I had various assignments in central office engineering, plant extension, circuit layout and regulatory operations. Just prior to divestiture, I moved to AT&T General Departments, where I was responsible for managing intrastate service cost models. My next assignment was in an

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AT&T regional organization responsible for regulatory implementation support of service and marketing plans within the five Ameritech states. I then moved to a headquarters position responsible for managing market research related to business communications services. Immediately prior to my current assignment, I worked within the product management organization, focusing upon private line data services.

5. I have a Bachelor of Science degree in Mechanical Engineering and a Masters Degree in Business Administration, both from Drexel University. In addition, I have a Professional Engineering License from the State of Pennsylvania.

I. SUBJECT OF STATEMENT

6. In support of its application to provide in-region, interLATA long distance services in Oklahoma, Southwestern Bell Telephone Company (SWBT) contends that it has satisfied its obligation under the Telecommunications Act of 1996 (the Act) to provide requesting carriers with "at least equivalent electronic access" to its operations support systems (OSS).¹ The Affidavit of Nancy Dalton, submitted in this proceeding by AT&T, demonstrates that SWBT has not yet developed and deployed operationally ready electronic interfaces that are capable of providing competitive local exchange carriers (CLECs) with the

¹ Affidavit of Elizabeth A. Ham (Tab 7), pp. 2, 3, 29, quoting Second Order on Reconsideration, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (released December 13, 1996) (*Second Order on Reconsideration*), ¶ 9.

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"nondiscriminatory access" to SWBT's operations support systems that is required under the Act and the Commission's orders.²

7. Even if SWBT had fully developed electronic OSS interfaces in a state of operational readiness, however, that alone would not establish that the access SWBT is providing to AT&T and other CLECs is "*nondiscriminatory*." To make that showing, SWBT must produce data demonstrating that the OSS access being provided to CLECs is in fact equivalent in terms of availability, timeliness, accuracy and completeness to the OSS access that SWBT provides to its own customer service representatives. SWBT has made no such showing here. This affidavit addresses the information that SWBT must provide to make a threshold showing of nondiscrimination. It then presents a minimum set of performance measurements that should be used to determine whether SWBT is actually providing CLECs with nondiscriminatory access to all operations support systems for the delivery of local services through both services resale and the use of unbundled network elements (UNEs).

² See First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (released August 8, 1996) (*Local Competition Order*), ¶¶ 517, 518, 523, 525; *Second Order on Reconsideration*, ¶¶ 2, 9.

II. THE INFORMATION REQUIRED TO DETERMINE WHETHER SWBT IS PROVIDING NONDISCRIMINATORY ACCESS TO OPERATIONS SUPPORT SYSTEMS

8. SWBT cannot establish that CLEC access to its operations support systems will be nondiscriminatory simply by SWBT's assertion or promise that it will be so. Nor can SWBT rely on a claim that the allegedly nondiscriminatory design of its systems and procedures obviates the need for any review of its actual performance, for as the Commission has recognized, "the BOCs' use of nondiscriminatory, automated order processing systems . . . does not guarantee that requests placed via these systems are actually completed within [the same] period of time."³ Nondiscriminatory access must be demonstrated to exist and monitored to assure that it continues to be provided.

9. There are a multitude of ways that an incumbent LEC can discriminate against CLECs in providing access to its operations support systems. Moreover, such discrimination can be subtle and difficult to detect or prove. Given the "vital" importance of nondiscriminatory OSS access to the development of meaningful competition in local telephone services,⁴ incumbent LECs must show more than the mere deployment of

³ First Report and Order, *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act*, CC Docket No. 96-149 (released December 24, 1996), ¶ 243.

⁴ See *Local Competition Order*, ¶ 518.

interfaces that are theoretically capable of providing parity of access; they must show that parity is a reality in the marketplace.

10. In order to prove that nondiscriminatory access is actually being delivered to CLECs, SWBT needs to provide information to the Commission sufficient to establish that the access being provided to CLECs is in fact at least "the same" as,⁵ or "equal to,"⁶ the OSS access that SWBT provides to its own customer service representatives in terms of its availability, timeliness, accuracy and completeness. Moreover, SWBT must show that such OSS access parity is being delivered for all operations support systems functions, including pre-ordering, ordering, provisioning, maintenance and repair, and

⁵ *Local Competition Order*, ¶ 523 ("the incumbent must provide *the same access* to competing providers" that it provides to its own customer service representatives); ¶ 316 ("the incumbent must provide access to [OSS] functions under *the same terms and conditions* that they provide services to themselves or their customers"); ¶ 518 (competing providers must be provided with the ability "to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially *the same time and manner* that an incumbent can for itself") (emphasis added).

⁶ *See id.*, ¶ 519 (generally relying upon state commission orders "ordering incumbent LECs to provide interfaces for [OSS] access *equal to* that the incumbent provides itself"); ¶ 315 (access must be provided on terms that are "*equal to* the terms and conditions under which the incumbent LEC provisions such elements to itself"); *Second Order on Reconsideration*, ¶ 9 (OSS access must be "at least equivalent" or "*equal to*" the access that the incumbent LEC provides to itself) (emphasis added).

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billing, and that such access is being delivered both for all resale services and for all unbundled elements and combinations of elements.⁷

11. To make this showing, SWBT must monitor and measure the access it is providing to CLECs and report that information to the Commission, along with comparable information regarding its performance for itself. The establishment of an appropriate measurement plan to monitor the quality of OSS access being provided (and to identify deficiencies and induce appropriate corrective action) is also essential to further "the 1996 Act's goal of promoting local exchange competition,"⁸ for the lack of any information to verify SWBT's compliance with its nondiscriminatory OSS access obligations is likely to have a chilling effect on the emergence of meaningful competition in the provision of local telephone services. An appropriate measurement plan, therefore, is essential to ensure that efficient competitors are provided with "a meaningful opportunity to compete."⁹

⁷ *Second Order on Reconsideration*, ¶ 9.

⁸ *Local Competition Order*, ¶ 315.

⁹ *Id.*

**III. SWBT HAS NOT SHOWN THAT IT IS PROVIDING NONDISCRIMINATORY
OSS ACCESS TO CLECS**

12. SWBT has not offered any data or measurement plan to support its claim that the access to operations support systems that it is providing to CLECs in Oklahoma is nondiscriminatory. This gap in its application reflects the fact that there has been no CLEC operational experience with the OSS access proposed by SWBT in Oklahoma because its proposed electronic interfaces are not yet in a state of operational readiness. Absent an appropriate measurement plan, however, even the deployment of operationally ready OSS interfaces will not meet SWBT's burden of establishing that the OSS access it is providing to CLECs is equivalent in terms of availability, timeliness, accuracy and completeness to the OSS access that SWBT provides to its own customer service representatives.

13. The few "performance criteria" contained in SWBT's Statement of Generally Available Terms and Conditions (SGAT) and repeated in SWBT's interconnection agreement with Brooks Fiber are obviously inadequate to establish that SWBT is providing nondiscriminatory access to its operations support systems. In the first place, those performance criteria relate to only three "specified activities" -- unbundled loop installation, interim number portability, and out-of-service repairs.¹⁰ They do not even purport to cover the range of OSS functions or services to which SWBT is required to provide

¹⁰ See SWBT SGAT, p. 21.

nondiscriminatory access under the Act. Those performance criteria do not address any of the pre-ordering, ordering, or billing functions at all. Nor do they address the provisioning of any services for resale, any unbundled elements besides local loops, or any repair and maintenance activities other than out-of-service repairs.

14. The second, and more fundamental, reason that the performance criteria in SWBT's SGAT are not adequate is that they are only *minimum* standards, and not *parity* standards. The requirement for parity is the *same* level of performance by SWBT for both CLECs and SWBT's own customer service agents. By contrast, the performance criteria set out in SWBT's SGAT are the *worst* levels of performance that will avoid penalties for poor performance. SWBT's *actual* performance for itself should ordinarily be substantially better. For example, there is obviously no parity if SWBT installs an unbundled loop for a CLEC in five days, but routinely installs loops for its own customers within 24 hours.

15. For the same reasons, the general service quality objectives set by the Oklahoma Corporation Commission are also inadequate to establish that parity of access is being provided to SWBT's operations support systems. Those service quality objectives have a fundamentally different purpose than measuring parity of access. They establish only minimum performance standards for the protection of SWBT's end-user retail customers. They are not designed to protect competing local service providers or to ensure that CLECs

receive parity of access to SWBT's operations support systems. Moreover, they address only a few OSS functions for a very limited range of basic services -- POTS installation intervals and speed of answer for repair and trouble calls¹¹ -- and they set only the outer limits on SWBT's response to such customer requests to avoid sanctions. They do not indicate what the level of SWBT's actual performance is for its own customers, which should be far better. The general service objectives, therefore, do not provide the information that is needed to determine whether parity is being provided to CLECs.

16. To demonstrate that parity of OSS access is actually being, and continues to be, delivered to CLECs, SWBT must provide appropriately defined and sufficiently detailed information regarding its performance both for the CLECs and for its own customer service agents to enable the Commission to determine that parity is being provided across all OSS functions and for all resale services and unbundled network elements. This information should support a statistically valid comparison of SWBT's performance for CLECs with its performance for its own local service operations. For this purpose, an appropriate set of OSS performance measurements are required.

17. To fill this need, AT&T has worked, both internally and with a group of other CLECs, known as the Local Competition Users Group, to develop an appropriate set of performance measurements that would enable competitors and regulators to determine

¹¹ See Okla. A.C. §§ 165:55-13-1(a); 165:55-13-23(3).

whether incumbent LECs are providing nondiscriminatory access to their services and systems. The Local Competition Users Group includes AT&T, MCI, Sprint, WorldCom, LCI International, and the Competitive Telecommunications Association (CompTel). The objective of this group has been to develop a set of criteria that accurately reflects the key attributes of the incumbent LEC's performance with a sufficient degree of disaggregation to provide a meaningful measure of its performance in providing parity of access to CLECs, while at the same time avoiding any undue burden or costs for the incumbent LEC. This group recently reached a consensus regarding the key measurements that should be used to evaluate whether incumbent LECs are providing CLECs with access to their operations support systems that is nondiscriminatory. The OSS performance measures described in this testimony reflect the consensus view of the Local Competition Users Group.

A. OSS Performance Measures

18. The OSS performance measures developed by the Local Competition Users Group are set out in Attachment 1.¹² These performance measures cover the principal OSS functions that SWBT will be providing to CLECs under the Act.

¹² The Local Competition Users Group has also proposed additional non-OSS key measures for "average speed to answer" for operator services and directory assistance calls where those services are provided by the incumbent LEC, and for "network performance parity" with respect to transmission quality, speed of connection, call completion rate, and call blockage. These additional performance measures are also included in Attachment 1.

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19. The performance measurements in Attachment 1 are divided into six categories: pre-ordering, ordering and provisioning, maintenance and repair, general, billing, and unbundled network elements and UNE combinations. For each of these OSS functions or processes, the Local Competition Users Group has identified a limited number of "key measures." These key measures are the minimum set of performance measurements that is required for determining whether SWBT is providing parity of access to CLECs. Although implementing this measurement plan may involve some costs, those costs should be substantially exceeded by the resulting benefits of fair competition in the use of the incumbent LEC's local services and facilities.

20. For pre-ordering, parity requires that CLEC customer service representatives have the same access to information regarding appointment scheduling, service and feature availability, address verification, requests for phone numbers and customer service records that is available to SWBT's representatives. Accordingly, the key measure for the pre-ordering function is the timeliness of SWBT's response in delivering pre-ordering information requested by the CLECs.

21. In order to show parity for ordering and provisioning, SWBT must show that it is completing activities for CLEC orders in the same amount of time that it completes comparable activities for its own orders. Thus, the first key measure for ordering

and provisioning is SWBT's "order completion intervals" for CLECs. SWBT is required to monitor these intervals under the rules of the Oklahoma Commission.¹³

22. Another key measure for ordering and provisioning parity is "order accuracy." SWBT's error rate for CLEC-initiated orders should be no greater than its error rate for its own orders. To make this determination, a comparison is made between the original order sent by the CLEC and the completion notice that SWBT sends back to the CLEC. If the actions requested on the order are the same as the actions specified on the completion notice, the order has been completed without error. Such a comparison requires that SWBT deliver an appropriately detailed completion notice to the CLEC. The measure permits an assessment to be made of SWBT's accuracy in processing and provisioning CLEC service orders, which can then be compared to SWBT's performance in provisioning its own orders. Parity in this area is essential because the end user will attribute any substandard performance by SWBT to the CLEC.

23. Parity also requires that information regarding order status be made available to CLECs as quickly as such order status information is available to SWBT's customer service representatives. For example, SWBT's systems must accept or reject CLEC orders as quickly as they do SWBT orders. These matters are measured by the proposed "order status" measure. Customers, and especially large business customers,

¹³ See Okla. A.C. § 165:55-13-1(a).

expect their local service provider to have such status information readily available for them, and they expect to be notified immediately whenever commitments cannot be met. The "order status" measure monitors whether CLECs will be disadvantaged by their access to this information.

24. The fourth ordering and provisioning key measure, the "percent of held orders," is designed to ensure that the delay in completing CLEC-initiated orders that are not completed by SWBT within the committed due date does not exceed the delays experienced with SWBT-initiated orders that are not completed within the committed due date. The held order measure monitors, in general terms, whether SWBT has sufficient capacity to provision CLEC service orders on the same schedule that it provisions orders from its own customers. By comparing results for the CLECs and SWBT, this measure should indicate whether or not CLECs are being discriminated against by a lack of capacity committed to the processing and provisioning of CLEC orders.

25. There are four key measures for maintenance and repair. "Average restoral time" measures the mean or average time that it takes for SWBT to resolve customer troubles on CLEC initiated trouble tickets. This measure would allow the Commission to determine, in general terms, whether or not CLEC customer troubles are being addressed by SWBT with equal urgency as SWBT customer troubles.

26. "Restoral intervals" measures trouble resolution intervals by reporting the percentage of troubles resolved within specified intervals. This measure addresses the

reality that some troubles take longer to fix than others. Those longer duration troubles have the potential to lead to particularly severe customer dissatisfaction. The restoral intervals measure allows an assessment to be made of whether or not SWBT and CLEC experience on the longer duration troubles is comparable.

27. "Troubles per 100 lines" compares the percentage of trouble reports on CLEC lines with the percentage of trouble reports on SWBT lines. This measure permits a quick comparison of the overall quality of the local network performance experienced by CLEC customers with that experienced by SWBT's own retail customers. Where nondiscriminatory support is being provided, one would expect the CLECs to have a trouble rate no greater than that experienced by SWBT's own customers.

28. The last maintenance and repair measure, "estimated time to restore," measures the percentage of repairs made on CLEC lines within SWBT's estimated restoral interval. Customers expect commitments to be met, and the failure of SWBT to meet its repair commitments will be viewed by the customer as a CLEC failure. This measure permits the Commission to determine whether missed commitments are occurring any more frequently when SWBT is servicing CLEC customers than when it is servicing its own retail customers.

29. The "general" category contains measurements relating to the general availability of SWBT's operations support systems and personnel to respond to CLEC calls. There are two "general" key measures. The first, "systems availability," measures the

number of hours that SWBT's operations support systems and interfaces were available for use by CLECs as compared to the number of hours that they were scheduled to be available to CLECs. The availability of SWBT's OSS systems to CLEC requests is absolutely critical to the emergence of local competition. This measure, which must be tracked for each type of interface, must be monitored to ensure that business can be transacted by CLECs with no less reliability than that experienced by SWBT personnel performing comparable tasks.

30. The second general measure, "speed of answer," measures the responsiveness of personnel in SWBT's CLEC support centers by measuring the percentage of CLEC calls that are answered by SWBT within a prescribed interval. In order for CLECs to provide timely responses to their customers, they must be able to obtain prompt responses from SWBT support center personnel. Parity requires that SWBT answer CLEC calls with the same speed as calls from their retail customers. SWBT is also required to monitor its speed in answering calls from customers under the rules of the Oklahoma Commission.¹⁴

31. The two billing measurements are the "timeliness of delivery," which measures the proportion of billing records delivered to the CLEC within a prescribed or agreed upon period of time, and the "accuracy" of those billing records measured by the proportion that are delivered to the CLEC with the agreed upon format and content. Nondiscriminatory performance by SWBT for both of these measures is necessary for

¹⁴ See Okla. A.C. § 165:55-13-23(3).

CLECs to have a reasonable opportunity to render timely and accurate bills to their retail customers. Here again, parity is essential because CLEC retail customers will attribute any substandard performance by SWBT to the CLEC.

32. The separate UNE measurements relate to the "availability" of network elements and combinations to CLECs, the "timeliness" with which they are delivered to CLECs, and the "quality/reliability" of the unbundled network elements and UNE combinations provided by SWBT in relation to agreed upon parameters. Because of the lack of experience with the utilization of individual unbundled network elements, it is reasonable to expect that measures to address SWBT's performance with respect to availability, timeliness and quality will be established when an element is requested. Where such elements are used in combination, and particularly where the functionality delivered closely approximates an existing retail service, the standard for parity should be no less than performance equality with the analogous SWBT retail service. This approach should greatly facilitate the development of competition through the use of unbundled network elements.

33. To demonstrate that it is providing nondiscriminatory access to its operations support systems, SWBT should monitor its performance in responding to the selected CLEC business activities in accordance with each of the OSS measurements listed in Attachment 1. These results should then be compared to SWBT's performance in responding to the requests of its own customer service representatives for the same services or functions to establish whether parity of access is being provided to CLECs. SWBT should report both

of these results to the Commission on a monthly basis in order to show that access is being, and continues to be, provided on a nondiscriminatory basis. SWBT should also submit monthly reports to each CLEC showing (1) SWBT's performance for itself, (2) its performance for that particular CLEC, and (3) its performance for all CLECs as a group.

34. Each of the proposed key measures is vital to determining whether SWBT is in fact providing nondiscriminatory treatment for CLECs. Installation intervals or outages are obviously not the only factors on which customers will judge the quality of service they receive from CLECs. If a customer calling to inquire about obtaining service from AT&T cannot get prompt and complete answers from AT&T because AT&T cannot obtain accurate and timely pre-order information from SWBT, the customer will perceive AT&T's service to be inferior and is likely to take its business elsewhere. Likewise, if AT&T is unable to render accurate and timely bills to its customers because it does not receive accurate and timely billing information from SWBT, AT&T customers will perceive that the problem lies with AT&T. Similarly, problems in each of the other areas addressed by these OSS performance measurements can have significant damaging effects on the emergence of competition in the provision of local services. Measurements to monitor SWBT's performance in each of these areas is thus critical for the development of robust local competition.

35. Until data for each of the key measures shown on Attachment 1 is provided by SWBT, it cannot be determined whether SWBT is actually providing CLECs with nondiscriminatory access to its operations support systems' functionality.

B. Interim OSS Benchmark Performance Standards

36. In the absence of the data described above, the Commission may wish to assess the access provided by SWBT using minimum "benchmark" performance standards for each of the key measures. Under this approach, each CLEC could monitor SWBT's performance as it relates to that particular CLEC and then compare that actual performance to the benchmark performance standards. Although this approach would not provide the direct comparison between SWBT's performance for the CLEC and its performance for itself that is required for a true determination of parity, the use of benchmark performance levels could provide a quick and cost effective interim way to address the parity issue. Of course, if SWBT were to rely on this approach, the Commission should carefully scrutinize SWBT's evidence to assure itself that SWBT is meeting the benchmark performance levels for all of the key measures shown on Attachment 1 and that the data presented is stable and consistent as applied to all CLECs.

37. I have set forth proposed "benchmark performance" standards for each of the performance measurements in Attachment 2. These benchmark performance standards represent the minimum levels of performance that SWBT should be required to meet in order to avoid a finding that it is not in compliance with the parity requirements of the Act. The

benchmark performance standards in Attachment 2 were developed by the Local Competition Users Group based on their experience in the long distance market. They were created out of frustration with the unwillingness of SWBT and other incumbent LECs to disclose their own actual performance levels, which would provide the true test of parity. The benchmark performance standards that I am submitting in Attachment 2 represent the Local Competition Users Group's consensus regarding the performance levels that incumbent LECs must maintain for each measure in order to make it unlikely that CLECs will be disadvantaged in their efforts to compete with incumbent LECs in the provision of local services.

38. Were the Commission to employ these benchmark standards, then any failure by SWBT to meet the benchmark performance standards set out in Attachment 2 should result in a presumption that SWBT is not in compliance with its obligations under the Act. If SWBT thinks any of these benchmarks performance standards are too demanding, SWBT should identify what its actual performance level for itself is for the particular key measure so that a more accurate determination regarding parity of performance can be made.

IV. RECOMMENDATIONS

39. I urge the Commission to make clear that it expects an RBOC that seeks to provide in-region, interLATA services under Section 271 to submit as part of its application detailed data regarding its performance for each of the key measures listed in Attachment 1. Only with this additional information can a factual determination be made as

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to whether SWBT is providing CLECs with nondiscriminatory access to its operations support systems for all OSS functions. This data needs to be amenable to statistical comparison and to cover a sufficient period of time to demonstrate reasonable stability of performance.

40. In those instances in which SWBT is unwilling or unable in a timely manner to institute the necessary data collection procedures for its own operations, the Commission should find that SWBT is not in compliance with its obligations under the Act whenever SWBT's performance, as measured by an individual CLEC, falls below the benchmark performance levels set out in Attachment 2. Moreover, the Commission should carefully scrutinize any claim by SWBT that it is meeting the benchmark performance standards to ensure that all of the standards are being met for a meaningful group of CLECs and that its performance is stable and consistent.

41. Until such time as the actual data regarding SWBT's performance in Oklahoma specified in Attachment 1 becomes available, the Commission cannot determine whether SWBT has met its competitive checklist obligation to provide CLECs with nondiscriminatory access to operations support systems and its application should be denied.